

PROPOSED COUNCIL STUDY ISSUE

For Calendar Year: 2004

Continuing ☐

New ☐

Previous Year (below line/defer) ☒

Issue: Consider Ways Arts Commissioners Can Be More Involved in Selecting Public Arts Projects for Public Properties

Lead Department: Parks and Recreation

General Plan Element or Sub-Element: Arts

1. What are the key elements of the issue? What precipitated it?

In May 2002, City Council approved an amendment to the ordinance to include the requirement of an expenditure of one percent (1%) for art in private development and one percent (1%) for art in-lieu alternative. Council also adopted an administrative policy to require art in public construction projects under certain circumstances and require an expenditure of 1% based on the capital project budget excluding administrative costs of each eligible project. To coincide with the new program for art in public construction projects and art purchased from an in-lieu fee, this Study Issue would investigate ways the Arts Commission could have an expanded role in the decision making process regarding the selection of sites for proposed new art work and in the approval process of the artwork proposed for those sites.

2. How does this relate to the General Plan or existing City Policy?

The existing City Charter provides the City Council may create by ordinance or resolution such boards or commissions as in its judgment are required and may grant to them such powers and duties as are consistent with the provisions of this Charter. (Amended effective November 30, 1995). This study issue may propose a change in City Charter to grant more powers and duties to the Arts Commission or it may propose a change in administrative policy regarding Art in Public Places, approved by City Council in May 2002.

3. Origin of issue:

Councilmember: _____

General Plan: _____

Staff: _____

BOARD or COMMISSION

CONSIDER WAYS ARTS COMMISSIONERS CAN BE MORE INVOLVED IN SELECTING PUBLIC ARTS PROJECTS FOR PUBLIC PROPERTIES

Arts	<input checked="" type="checkbox"/>	Housing & Human Svcs	<input type="checkbox"/>
Bldg. Code of Appeals	<input type="checkbox"/>	Library	<input type="checkbox"/>
BPAC	<input type="checkbox"/>	Parks & Rec.	<input type="checkbox"/>
CCAB	<input type="checkbox"/>	Personnel	<input type="checkbox"/>
Heritage & Preservation	<input type="checkbox"/>	Planning	<input type="checkbox"/>

Arts Commission ranked

No. 2 of

4

Board / Commission Ranking/Comment:

The Arts Commission recommended deferral of this issue for study until after calendar year 2003.

City Council recommended deferral of this issue for study until after calendar year 2003.

The Arts Commission ranked this issue No. 2 out of 4 issues ranked for Council consideration for study in calendar year 2004.

4. Due date for Continuing and Mandatory issues (if known): _____

5. Multiple Year Project? Yes ☐ No ☒ Expected Year of Completion 2004

6. Estimated work hours for completion of the study issue.

(a) Estimated work hours from the lead department 40-60

(b) Estimated work hours from consultant(s): _____

(c) Estimated work hours from the City Attorney's Office: 5

(d) List any other department(s) and number of work hours:

Department(s): Public Works 10

Total Estimated Hours: 55-75

7. Expected participation involved in the study issue process?

(a) Does Council need to approve a work plan? Yes ☐ No ☒

(b) Does this issue require review by a Board/Commission? Yes ☒ No ☐

If so, which Board/Commission? Arts Commission

(c) Is a Council Study Session anticipated? Yes ☐ No ☒

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(d) What is the public participation process?

This Study Issue would be agendized and publicly noticed for the Arts Commission and City Council meetings as appropriate.

8. Estimated Fiscal Impact:

Cost of Study	\$	0
Capital Budget Costs	\$	0
New Annual Operating Costs	\$	0
New Revenues or Savings	\$	0
10 Year RAP Total	\$	0

9. Staff Recommendation

- ☐ **Recommended for Study**
- ☒ **Against Study**
- ☐ **No Recommendation**

Explain below staff's recommendation if "for" or "against" study. Department director should also note the relative importance of this study to other major projects that the department is currently working on or that are soon to begin, and the impact on existing services/priorities.

Commissioner Carney has proposed this study issue to "investigate ways the Arts Commission could have an expanded role in the decision making process regarding the selection of public art and in the selection of sites for new public artwork". In May 2002, City Council approved the creation of the new Art in Public Places Program and a modified Art in Private Development Program. Staff recommends against this issue as staff believes that the administrative policy already provides policy level Arts Commission involvement in the selection of public art sites and the approval process for each artwork.

In May 2002, Council approved an administrative policy for art in public construction that does provide for Arts Commission involvement in determining the location for art in public projects. This involvement is outlined in Section 5.C of the policy: *"Possible locations for the artwork shall be identified with input from the Sunnyvale Arts Commission, City staff, interested citizens and project architects"*. Additionally, the same administrative policy states in Section 5.G: *"The Arts Commission shall review all arts panel (City staff project committee) recommendations and recommend to City Council the selection of a specific design proposal from the alternatives provided by staff"*.

Currently, the Arts Commission reviews every art in private development proposal that

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is required by the Sunnyvale Municipal Code. Objective criteria are used by the Commission to evaluate each proposal. The criteria includes location, public visibility, size and scale of the artwork in its environment, durability of materials and the experience and knowledge of the artist in producing public art. The Art in Private Development Program and the language in the zoning regulation have been specifically crafted to provide developers with maximum flexibility in determining the location and actual type of artwork within each project design, so long as the art proposal meets the objective review criteria. Providing for more active Arts Commission involvement in the selection of locations and actual artwork is not consistent with the intent of the zoning regulation to allow developers to decide how they wish to spend their money on art located on private property.

The differences between the Arts Commission's role in reviewing public art projects as provided under the new administrative policy, and the current process for reviewing art for private development projects have been reviewed with Commissioner Carney on several occasions in an attempt to clarify the area or degree of involvement in the decision making process that is desired. Staff has been unsuccessful in identifying where the Commissioner wishes to see the Commission's role expanded. **Staff believes that the newly adopted administrative policy already provides for policy level Arts Commission involvement in the selection of public art sites and the approval process for each artwork. (Please see attached, Art in Public Construction Projects Administrative Policy.)**

reviewed by

Department Director

Date

approved by

City Manager

Date

Attachment

Art in Public Construction Projects Administrative Policy

Art in Public Places Program

Section 1. Purpose

The purpose of this policy is to ensure the inclusion of art in public projects by establishing uniform guidelines and procedures for eligible municipal projects and to provide uniformity between the requirement for art in public construction projects with the requirement for art in private development.

Section 2. Background

In May 2001, City Council reviewed the status, intent and effectiveness of public art policy in Sunnyvale. At that time, City Council approved in concept a proposed administrative policy to require art in public construction projects under certain circumstances.

Section 3. Definitions

- A. Art: The conscious use of skill and creative imagination in the production of aesthetic objects.
- B. Public Art: Artwork that is visually and physically accessible to the public.
- C. Public Areas: Any public gathering place including, but not limited to; public plazas, the library, parks and park buildings, police and fire stations, community, neighborhood and senior centers, public transportation centers, and civic centers.
- D. Publicly Funded Projects: All construction funded by public or taxpayer funds.
- E. Eligible Projects:
 - 1. All aboveground publicly funded public buildings or public open space projects within City jurisdiction with a construction valuation of \$1,000,000 or more. This includes the development or renovation of all public facilities, as well as; parks, street medians, City gateways, public plazas and any other locations identified in the Master Plan for Public Art developed in accordance with Council direction.

2. All construction or renovation projects of \$100,000 in facilities such as:
- Sunnyvale Community Center
 - Sunnyvale Civic Center complex including Library and Public Safety Building
 - Fire Stations
 - Columbia Neighborhood Center
 - Neighborhood Park Buildings
 - Water Pollution Control Plant and SMART Station
 - Focal points and gateways into the community
 - Any future City buildings that are comparable in nature
- F. Exempt Projects: All underground projects, utility (including water) projects, streets and sidewalks, trees and landscaping, utility relocation, seismic upgrades, mechanical and electrical work, traffic improvements (such as traffic lights, crosswalks and traffic calming measures), and construction due to fire or other natural calamities.
- G. Eligible Costs: Acquisition of artwork, staff and consultant costs associated with the acquisition and installation of the artwork, artist and design fees, artist travel, transportation and installation of artwork, lighting, landscaping directly associated with the artwork and identification plaques. Any costs related to utility relocations, site preparation and staff time directly associated with the installation of an artwork are also eligible.
- H. Non-eligible Costs: Architect and engineering fees, site preparation (including utility relocation), landscaping, and public works and community development staff costs not directly associated with the artwork.
- I. Project Valuation: The City's building permit valuation formula as set forth in Title 16 of the Municipal Code will be used as the basis for calculating the required expenditure for public art. The formula is based on the building standards published by the International Conference of Building Officials. In the case of park and open space projects, the one- percent requirement will be calculated based on the total project budget, excluding administrative costs.
- J. Artwork Valuation: When calculating the value of an artwork to be placed on a private development site, eligible costs will include:
- (1) The purchase price of the artwork
 - (2) Travel costs for the artist
 - (3) Transportation of the artwork to the site
 - (4) Installation of the artwork
 - (5) Site preparation costs directly associated with installation of the artwork
 - (6) Landscaping that is integral to the artwork
 - (7) Pedestals or display costs

(8) Lighting for the artwork and utility fees associated with the installation or operation of the artwork

(9) Identification plaque

Ineligible costs include:

(1) Land acquisition

(2) Site preparation

(3) Architect fees

(4) Fees associated with dedication ceremonies, publicity, or educational components

(5) Maintenance fees and repairs

Section 4. Policy

Eligible projects as defined in Sections E.1 and E.2 are required to integrate public art into the projects. The artwork shall be located in publicly visible areas either inside a public building or on public property as defined in Section 3.C. Eligible projects will be required to provide artwork valued at one percent (1%) of the valuation of an eligible project, not to exceed \$500,000. The “not to exceed” threshold will be indexed for inflation. The artwork shall be valued at an amount equal to 1% of the project valuation within a variance of ten percent.

The in-lieu fee alternative available to private developers will also apply to public construction projects at the discretion of the Director of Public Works. If the in-lieu option is exercised, the funds will be placed in the Public Art Fund for acquisition and installation of art on public property or in public buildings at a later date.

Section 5. Responsibilities and Authority

A. Eligible Projects: The Director of Public Works and the Director of Parks and Recreation, or their designees shall be responsible for identifying municipal construction and renovation projects that meet the conditions of this Administrative Policy and will be required to provide public art.

B. Art Panel: A panel consisting of staff from the Departments of Public Works, Parks and Recreation, and Community Development, as appropriate, to coordinate the public art component of an eligible municipal project.

C. Artwork Location: Possible locations for the artwork shall be identified with input from the **Sunnyvale Arts Commission**, City staff, interested citizens and project architects.

D. Artwork Design: Possible types of artwork shall be identified by the City’s arts staff and reviewed by the Art Panel.

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- E. Solicitation of Proposals: Department of Parks and Recreation staff shall be responsible for soliciting design proposals and/or qualified artists.
- F. Arts Panel Review: The arts panel shall review and approve all arts staff recommendations.
- G. Arts Commission: The **Arts Commission** shall review all arts panel recommendations and recommend to City Council the selection of a specific design proposal from the alternatives provided by staff.
- H. Project Coordination: The Department of Parks and Recreation will provide art-related specifications for construction bid packages and develop the artist's contract. The Department of Public Works will coordinate with the architect/design engineer to prepare the site to accommodate the installation of artwork.
- I. Permanent Collection: Artwork accepted by the City Council shall become part of the City's Permanent Art Collection. All artwork in the permanent collection will be documented in the City's Public Art Inventory and identified with a metal plaque. Oversight of the City's Permanent Art Collection is the responsibility of the Department of Parks and Recreation.
- J. Maintenance: Maintenance of artwork in the City's permanent collection is the responsibility of the Department of Parks and Recreation. Inspections will be conducted on an annual basis and cleaning and repairs made as needed.
- K. Publicity: Publicity materials and photographs of the permanent collection are the responsibility of the arts staff.